### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Zoning Variance in which the Petitioner requests relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50.4 feet in lieu of the required 55 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

The Petitioner, Ronald W. Bair, appeared and testified. Also appearing on behalf of the Petition was Eugene W. Schwandtner, Contract Purchaser of the subject property. There were no Protestants.

Testimony indicated that the subject property, known as 13211 Birdale Avenue, consists of 7,560 sq.ft. zoned D.R. 5.5 and is presently unimproved. Said property is located within the Chesapeake Bay Critical Areas near Bird River. The Petitioner has contracted to sell the subject property to Eugene Schwandtner who is desirous of constructing a single family dwelling thereon in accordance with Petitioner's Exhibit 1. Testimony indicated that the subject property is located in the subdivision known as Twin Rivers Beach which was developed with 50-foot wide lots many years ago. Petitioner testified that there is no available land on either side of the subject lot from which to acquire the additional land needed and to require strict compliance with the zoning regulations would result in practical difficulty and unreasonable hardship for him.

This property is located within the Chesapeake Bay Critical Areas and as such, is subject to any recommendations made by the Department of Environmental Protection and Resource Management (DEPRM) as to Critical Areas requirements. Accordingly, the granting of the relief requested herein is contingent upon compliance with any recommendations made by DEPRM concerning the proposed development upon completion of their review.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief: and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented. it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the require-

- 2-

ments from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 24th day of June, 1992 that the Petition for Zoning Variance requesting relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50.4 feet in lieu of the required 55 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The relief granted herein is contingent upon the Petitioner's compliance with any recommendations made by DEPRM upon completion of their findings. Petitioner shall submit a Critical Area Findings Plan for review and approval by DEPRM prior to the issuance of any permits.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Surthy Kotrons TIMOTHY M. KOTROCO Deputy Zoning Commissioner - 3- for Baltimore County

Petition for Variance
to the Zoning Commission

for the property located at 13211 BIRJALE AVE which is presently soned DR5.5 This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached. The undersigned, legal owner(s) of the property situate in patients south, hereby petition for a Variance from Section(s) 1802.3.C./ of THE BCZR TO PERMIT A MINIMUM LOT WIDTH of 50.4 ft IN LIEU of The REDUISED 55 FT

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) THE FRONTAGE OF THIS PROPERTY IS 50.4 FEET. SINCE 55 FEET IS REQUIRED, WE CANNOT OBTAIN A BUILDING PERMIT WITH OUT A VARIANCE Property is to be posted and advertised as prescribed by Zoning Regulations. г торотту ю to оо россой акта автотноси аз рессептов оу догнед годиналотю.

1, or we, agree to pay expenses of above Variance advertising, poeting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

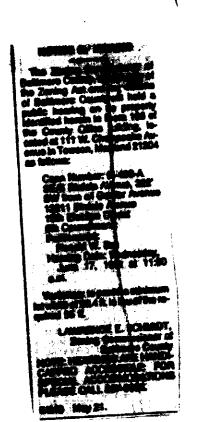
	I/We do solemnly declare and affirm, under the penalties of parjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.
A D. Indoored accepts	Legal Owner(s):
TACK PUICHERSE/LESSEDE:  USENE W SCHWAUDTNER	Cycle or Print Name)
or Print Name)	Rode W Boir
902 ) Sweller (red of	Signature (Type or Print Name)
DEF WOOD MD 2/0/0 Summer Zipcode	Signature
orney for Petitioner:	12 FITZGREALS CT 8624197
pe or Print Name)	Palte M. 2/234
	City Name, Address and phone number of legal owner, contract purchaser or representath
упавие	to be contacted.
idress Phone No.	Name
ty State Zipcode	Address Phone No.  OFFICE USE ONLY
and the second s	ESTIMATED LENGTH OF HEARING
	AWANTEDPO to Locumb
RDER RECEIVED FOR FILING	the following dates Head Two Months

92-430-A

ZONING DESCRIPTION FOR 13211 BIRDALE AVE.

BEGINNING FOR THE FIRST AND SECOND THEREOF ON THE SOUTH EAST SIDE OF BIRDALE AUE, WHICH IS 30 FEET WIDE AT A DISTANCE OF 322.4 FEET SOUTHWEST FROM THE CENTERLINE OF GUNDER AUE WHICH IS 40 FEET WIDE, BEING LOTS # 306 + 307 AS LAID OUT ON THE PLAT OF TWIN RIVER BEACH, SECTION "A" AS RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN PLAT BOOK L. Me L. M. No. 9 FOLIO 33, CONTAINING 7560 SQUARE FEET. ALSO KNOWN AS 13211 BIRDALE AVENUE AND LOCATED IN THE 15th ELECTION DISTRICT. ALSO RECORDED IN LIBER 8050 PAGE 551.

Eugene W. Schwan dino + Ronal & Bair ne of property: SE/S Birdolo Hrs. (13211) 3221 SW/Gunder Ava Location of Signe Facing rood way, an property of Pet tioner.



# CERTIFICATE OF PUBLICATION

published in THE JEFFERSONIAN, a weekly newspaper published 'n Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on  $\perp$ 

THE JEFFERSONIAN,

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**Baltimore County Government** Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

June 24, 1992

Mr. Ronald W. Bair 12 Fitzgerald Court Baltimore, Maryland 21234

RE: PETITION FOR ZONING VARIANCE SE/S Birdale Avenue, 322' SW of the c/l of Gunder Avenue (13211 Birdale Avenue)

15th Election District - 6th Councilmanic District Ronald W. Bair - Petitioner Case No. 92-430-A

Dear Mr. Bair:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

TIMOTHY M. KOTROCO Deputy Zoning Commissioner

for Baltimore County

cc: Chesapeake Bay Critical Areas Commission 45 S. Calvert Street, 2nd Floor, Annapolis, Md. 21401

People's Counsel

Mr. Eugene W. Schwandtner 902-J Swallow Crest Court, Edgewood, Md. 21040

6/18/9E

receipt

419200616

PUBLIC HEARING FEES 080 -POSTING SIGNS / ADVERTISING 1 TOTAL: \$75.26

LAST NAME OF OWNER: PAIR

RECEIVED FOR F

TMK:bjs

BA CO02:25PM06-18-92
Please Make Checks Payable To: Baltimore County

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

DATE: 6 1 92

Ronald W. Bair 12 Fitzgerald Court, #1 Baltimore, Maryland 21234

CASE NUMBER: 92-430-A SE/S Birdale AVenue, 322' SW from c/l Gunder Avenue 13211 Birdale Avenue 15th Election District - 6th Councilmanic Petitioner(s): Romald W. Bair

Dear Petitioner(s):

Please be advised that \$ 74.76 is due for advertising and posting of the above captioned

THIS FEE MOST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING. Please forward your check via return smil to the Zoning Office, County Office Building, 111 W. Chesapeake

Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be sade payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

05/18/92 DPW/Developers Engineering Division (Public Services) Development Review Committee Response Form Authorized signature \_ Denni A. Kennedy \_\_\_\_\_ Date 5/18/92\_ Meeting Date Zoning Issue 9690 Deereco Road Limited Partnership 5-11-92

DED DEPRM RP STP TE Orville Jones PDED DEPRM RP STP TE ···· Harbor Realty Partnership DED DEPRM RP STP TE

Jerald H. And Brenda D. Windes DED DEPRM RP STP TE Daniel C. And Susan E. Gutkin

DED DEPRM RP STP TE 7U Donald And Anne Kahn 

Signet Bank, Maryland DED DEPRM RP STP TE Ronald W. Bair

DED DEPRM RP STP TE A. Eric And Esther J. Dott 

William J. And Mary Jane Kramer DED DEPRM RP STP TE Douglas B. And Judith A. Celmar

DED DEPRM RP STP TE

COUNT 11

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public bearing on the property identified herein in Room 106 of the County Offica Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

CASE WIREER: 92-430-1 SE/S Birdale AVenue, 322' SW from c/l Gunder Avenue 13211 Birdale Avenue 15th Election District - 6th Councilmanic Petitioner(s): Ronald W. Bair HEARING: WEDNESDAY, JUNE 17, 1992 at 11:00 a.m.

Variance to permit a minimum lot width of 50.4 ft. in lieu of the required 55 ft.

Baltimore County

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND

OFFICE OF PLANNING AND ZONING New Courts Building 401 Bosley Avenue Towson, MD 21204

**MEMORANDUM** 

Arnold Jablon, Director - Zoning Administration & Development

Ervin McDaniel, Chief Development Review Section Office of Planning and Zoning

May 13, 1992

PETITIONS FROM ZONING ADVISORY COMMITTEE - 5/11/92

The Office of Planning and Zoning has no comments on the following petitions:

Jerald & Brenda Windes - Item 453 Daniel & Susan Gutkin - Item 454 - Item 455 Donald & Anne Kahn - Item 457 Ronald W. Bair William & Mary Jane Kramer - Item 459 Douglas & Judith Celmer - Item 460

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning and Zoning at 887-3211.

5\_11\_92.txt Petitns.txt



3/19/92

Baltimore County Government
Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204



June 2, 1992

887-3353

05/18/92

Pate 5/18/92

Meeting Date

5-11-92

NIC

Zoning Issue

452

Mr. Ronald W. Bair 12 Fitzgerald Court Baltimore, MD 21234

> RE: Item No. 457, Case No. 92-430-A Petitioner: Ronald W. Bair, et al Petition for Variance

Dear Mr. Bair:

DPW/Traffic Engineering

DED DEPRM RP STP TE

Ronald W. Bair

Orville Jones

Harbor Realty Partnership

Jerald H. And Brenda D. Windes

Daniel C. And Susan E. Gutkin

Donald And Anne Kahn

Signet Bank, Maryland

A. Eric And Esther J. Dott

William J. And Mary Jane Kramer

Development Review Committee Response Form

Authorized signature Kolhein 1 0ml

9690 Deereco Road Limited Partnership

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this 30th day of April, 1992.

Baltimore County Government
Office of Zoning Administration

Zoning Plans Advisory Committee

Petitioner: Ronald W. Bair Petitioner's Attorney:

BALT MORE COUNTY, MAR AND DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

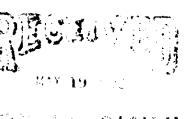
Mr. Arnold Jablon, Director Zoning Administration and Development Management

Mr. J. Lawrence Pilson Development Coordinator, DEFRM

Zoning Item #457 13211 Birdale Avenue Zoning Advisory Committee Meeting May 11, 1992

The Department of Environmental Protection and Resource Management requests an extension for the review of the above referenced zoning item to determine whether the proposed development is in compliance with the Chesapeake Bay Critical Area Regulations. The applicant must submit a Critical Area Findings Plan for review and approval by this Department prior to preparation of a Critical Area Findings for the development. The applicant may contact the Environmental Impact Review Division of the Department at 887-2904 for details.

JLP:sp JABLON/S/TXTSBP



DATE: May 14, 1992

ZONGE OFFICE

Baltimore County Government Fire Department

(301) 887-4500

700 East Joppa Road Suite 901 Towson, MD 21204-5500

MAY 13, 1992

Arnold Jablon Director Zoning Administration and Development Management Baltimore County Office Building Towson, MD 21204

RE: Property Owner: RONALD W. BAIR

#13211 BIRDALE AVENUE Location: Zoning Agenda: MAY 11, 1992

Item No.: 457 (JCM)

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

Fire Prevention Bureau Special Inspection Division

Mr Arnold E. Jablon July 17, 1992

## REGULATIONS AND FINDINGS

- Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Section 26-449(a)>.
  - Finding: There are no tidal waters, tidal wetlands or tributary streams on or within 100 feet of this property.
- 2. Regulation: "Dredging, filling, or construction other than approved bulkheading shall not be permitted in any non-tidal and tidal wetlands unless the proposed development consists of utility, bridge, or street development in a non-tidal wetland and unless the Director of Environmental Protection and Resource Management finds this proposed development not detrimental to the County's Wetland Management Programs" <Baltimore County Code, Section 26-447>.

Finding: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site.

Regulation: "If a parcel or lot one-half acre or less in size was in residential use or zoned for residential purposes on or before December 1, 1985, then man-made impervious surfaces associated with that use are limited to 25% of the parcel or lot" <Baltimore County Code. Section 26-543(e)(1)>.

Findings: The amount of impervious areas shall not exceed 1890 square feet. This includes all building structures, paved and crusher run driveways and parking pads, or any other impervious surfaces.

Regulation: "If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15%" <COMAR 14.15.02.04 C.(5)(e)>.

Finding: The following plant material shall be selected from the enclosed list and planted in addition to existing vegetation to provide a 15% forested cover.

Shrub and small tree list: 4 items - ball and burlap or 2 gallon container size

Trees are an important factor in improving water quality. The roots of trees greatly improve the infiltration rate of storm water and efficiently remove nitrogen from subsurface flows of ground water. Trees also act as both a barrier and a sponge, blocking and absorbing eroding soils and the phosphorous associated with them.

Department of Recreation and Parks Development Review Committee Response Form Authorized signature 54 1985 Date 1811 Date 1811 Date 1811 Project Name Zoning Issue Meeting Date File Number Waiver Number 9690 Deereco Road Limited Partnership 5-11-92 DED DEPRM RP STP TE / Orville Jones DED DEPRM RP STP TE 160 DEFAIL AF 31F 16 Harbor Realty Partnership DED DEPRM RP STP TE Jerald H. And Brenda D. Windes DED DEPRM RP STP TE DED DEPRM RP STP TE Daniel C. And Susan E. Gutkin DED DEPRM RP STP TE Donald And Anne Kahn DED DEPRM RP STP TE Signet Bank. Maryland DED DEPRM RP STP TE LED DEFINITION OF SECTION AND COMMENT. DED DEPRM RP STP TE EU DEFRII RE SIF IE A. Eric And Esther J. Dott DED DEPRINKT SIF IE DED DEPRM RP STP TE / William J. And Mary Jane Kramer DED DEPRM RP STP TE / Douglas B. And Judith A. Celmar PERSENATE RESIDENTE PROPERTIES DE LA CONTROL COUNT 11

> Mr. Arnold E. Jablon July 17, 1992

Regulation: "Infiltration of stormwater shall be maximized throughout the site, rather than directing flow to single discharge points" <Baltimore County Code, Section 26-453(h)(2)>.

Finding: Stormwater runoff shall be directed from impervious surfaces associated with this plan, to pervious areas, to encourage maximum infiltration. Rooftop runoff shall be directed through downspouts and into dry wells, to encourage maximum infiltration (see attachment).

## CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above. This proposal does comply with Chesapeake Bay Critical Area Regulations, and is therefore approved. If there are any questions, please contact Ms. Patricia M. Farr at 887-2904.

Department of Environmental Protection and Resource Management

JJD:MM:ju

Attachment

cc: Mr. Ronald W. Bair, w/attachment Mr. Eugene W. Schwandtner, w/attachment

BAIR/TXTNSS

92-430-A BAL MORE COUNTY, MARTLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

Mr. Arnold Jablon, Director Zoning Administration and

Development Management

FROM: J. Lawrence Pilson // Development Coordinator, DEPRM

Zoning Item 457 13211 Birdale Avenue

Zoning Advisory Committee Meeting of May 11, 1992.

The Department of Environmental protection and Resource Management offers the following comments on the above referenced zoning item.

PETITIONER(S) SIGN-IN SHEET

See attached Chesapeake Bay Critical Area Findings

JABLON/S/TXTJEU

PLEASE PRINT CLEARLY



9025 Swallow Crest Ct 21040

HE Esternald C+ A+A. 21234

July 22, 1992

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold E. Jablon, Director DATE: July 17, 1992

FROM: J. James Dieter

SUBJECT: Petition for Zoning Variance - Item 457 Chesapeake Bay Critical Area Findings

Office of Zoning Administration

and Development Management

#### SITE LOCATION

The subject property is located at 13211 Birdale Avenue. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Mr. Ronald W. Bair

#### APPLICANT PROPOSAL

The applicant has requested a variance from section 1B02.3.C.1 of the Baltimore County Zoning Regulations to permit a minimum lot width of 50.4 feet in lieu of the required 55 feet.

#### GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

- 1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
- 2. Conserve fish, wildlife and plant habitat; and
- Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts." <COMAR 14.15.10.01.0>

Plat to accompany Petition for Zoning Variance Special Hearing PROPERTY ADDRESS: 13211 BIRDALE AVE See pages \$ & 6 of the CHECKLIST Subdivision name: TWIN RIVERS BEACH
plat books 9 ,tolios 33 ,lats 36 ,sections the frame of the same of the s OWNER: RONALD BAIR 12 FITZGERALD CT APT A BALT 21234 HAREWOOD: PA RAILROAD ROW 306+307 308+309 HAROLD ROUALD POUPARD DESHNER LOCATION INFORMATION 8060-0551 7956-0643 5315-0171 T-200' scale map#: E 4 FRAME SFD Zoning: OR 5, 5 ALL CORNERS 900 322.4 TO CENTER GUNDER AUE -4 FTISTING 8" WATER Prior Zoning Hearings: Zoning Office USE ONLY! date: 4-15-92 Scale of Drawing: 1'= 50' prepared by: EUGEME SCHNOOLTHER

